

UNITED STATES DISTRICT COURT
District of New Jersey

CHAMBERS OF
JOSE L. LINARES
JUDGE

MARTIN LUTHER KING JR.
FEDERAL BUILDING & U.S. COURTHOUSE
50 WALNUT ST., ROOM 5054
P.O. Box 999
Newark, NJ 07101-0999
973-645-6042

NOT FOR PUBLICATION

LETTER OPINION

July 9, 2009

VIA U.S. MAIL

Luis Arcos
#26600-050
Cedar Hill Unit
Cornell Big Spring Correctional Center
Big Spring, TX 79720

VIA ELECTRONIC FILING

Jonathan Levy, Assistant United States Attorney

Re: United States v. Arcos, No. 04-605 (JLL)

Dear Counsel and Mr. Arcos:

Pending before this Court is a pro se motion by Defendant Luis Arcos to reduce his sentence. (Docket Entry # 33.) Arcos relies upon United States v. Restrepo, 802 F. Supp. 781 (E.D.N.Y.) as support for his argument that “collateral consequences” stemming from his status as a deportable alien are a sufficient basis for sentence reduction. Arcos specifically argues that because he is a deportable alien, he is not allowed to serve the last ten percent of his sentence in a halfway house or other community custody program like prisoners who are United States citizens. Though Arcos’s argument finds support in the district court’s opinion in Restrepo, that opinion was subsequently vacated by the Second Circuit. United States v. Restrepo, 999 F.2d 640 (2d Cir. 1993). Specifically, the Second Circuit held that a policy of denying “reassignment to relaxed-security facilities to alien prisoners who must be deported on account of their convictions” was an “inappropriate basis for departure from the imprisonment range prescribed by the Guidelines.” Id. at 645.

This Court accordingly **DENIES** Arcos’s motion for a reduced sentence.

SO ORDERED.

/s/ Jose L. Linares

United States District Judge